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## SENATE BILL No. 403

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-5-4.

**Synopsis:** Prospective employee use of tobacco. Permits an employer to ask a prospective employee about the use of tobacco products as a part of the interviewing procedure and to: (1) hire another prospective employee rather than; or (2) refuse to hire; the prospective employee due to the use of tobacco products by the prospective employee.

**Effective:** July 1, 2005.

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**Clark**

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January 13, 2005, read first time and referred to Committee on Pensions and Labor.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 403

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 22-5-4-1 IS AMENDED TO READ AS FOLLOWS  
2       [EFFECTIVE JULY 1, 2005]: Sec. 1. **(a)** An employer may not:

3       (1) require, as a condition of employment, an employee or  
4       prospective employee to refrain from using; or

5       (2) discriminate against an employee with respect to:

6       (A) the employee's compensation and benefits; or

7       (B) terms and conditions of employment;

8       based on the employee's use of;

9       tobacco products outside the course of the employee's or prospective  
10      employee's employment.

11      **(b) Notwithstanding subsection (a), an employer may ask a**  
12      **prospective employee about the use of tobacco products as a part**  
13      **of the interviewing procedure. The employer may:**

14      **(1) hire another employee rather than; or**

15      **(2) refuse to hire;**

16      **the prospective employee due to the use of tobacco products by the**  
17      **prospective employee.**



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1 SECTION 2. IC 22-5-4-2 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) An employee or prospective  
3 employee may bring a civil action against an employer to enforce  
4 ~~section 1~~ **section 1(a)** of this chapter.

5 (b) If an employer violates ~~section 1~~ **section 1(a)** of this chapter, the  
6 court may do the following:

7 (1) Award:

8 (A) actual damages; and

9 (B) court costs and reasonable attorney's fees;  
10 to the prevailing employee or prospective employee.

11 (2) Enjoin further violation of this chapter.

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